

PATENT
W&B Ref. No. : INF 2227-PC/US
Atty. Dkt. No. INFN/WB0060

REMARKS

This is intended as a full and complete response to the Restriction Requirement dated July 12, 2005, having a shortened statutory period for response set to expire on August 12, 2005. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-20 are pending in the application. Claims 1-20 remain pending following entry of this response.

Claims 1-20 stand restricted under 35 U.S.C. 121 as follows:

- I. Claims 10-12, drawn to a semiconductor process, classified in class 438, subclass 257 +.
- II. Claims 1-9 and 13-20, drawn to a semiconductor device, classified in class 257, subclass 288 +.

The Examiner states that the inventions are distinct, each from the other because of the following reasons:

"Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process such as one in which a gate is used instead of selection gate."

Applicants provisionally elect, with traverse, the claims of Group II (claims 1-9 and 13-20) for examination.

There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent; and (B) There must be a serious burden on the examiner if restriction is required. (MPEP § 803). Applicants submit that the Examiner has not properly established or satisfied the criteria for a proper requirement for restriction.

Applicants submit that the Examiner has incorrectly applied the criteria for distinguishing inventions that are related as a process of making and product made to the claims of the present invention. Claims 10-12 are directed to methods for operating a programmable read-only memory cell and are not directed to a process for making

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semiconductor devices. Thus, the inventions as grouped by the Examiner are not related as a process of making and product made.

As an initial matter, Applicants note that all of the claims in both groups recite the "selection gate". Accordingly, Applicants submit that the Examiner's basis for distinguishing the invention groups is inapplicable to the claims as presented. Furthermore, regarding the Examiner's statement that "the product as claimed can be made by another and materially different process such as one in which a gate is used instead of selection gate," Applicants submit that such processes are not materially different processes, as required by MPEP § 806.05(f), since "a selection gate" is "a gate".

Therefore, Applicants submit that the restriction requirement is improper and respectfully requests withdrawal of the restriction requirement.

Having addressed all issues set out in the Restriction Requirement, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



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